

**Boone County
Area Plan Commission**

A. Petition Number:	12SC-7M-107
B. Applicant:	Ron Wharry representing Ed and Eva Shelley
C. Identification Number:	009-04630-00
D. Location:	The location of this petition is on the west side of State Road 75 and south of County Road 500 North.
E. Ordinance Process:	<p><u>Ordinance Process</u></p> <p>Upon reviewing the application for subdividing (4) residential lots on Agricultural Zoned land, the APC director finds the following legal processes must be approved prior to issuance of Improvement Location Permits (ILP's):</p> <p>Boone County Zoning Ordinance [Page -8]</p> <p>As found in Table 2, of the Boone County Zoning Ordinance, any new single family home in the Agricultural Zoning District requires Special Exception approval. The applicant must receive Special Exception with Minor Plat approval prior to the appearance before the Area Plan Commission (APC). The Board of Zoning Appeals will review the Special Exception application based on (6) outlined evaluation criteria prior to the Minor Plat being heard before the Area Plan Commission.</p> <p>Boone County Subdivision Control Ordinance [Page - 9]</p> <p>Section C.1 Purpose</p> <p>Upon granting approval of the Special Exception by the Boone County Board of Zoning Appeals (BZA) the applicant will be required to receive Minor Plat Approval by the Area Plan Commission.</p> <p>Subdivision of Parent Tract</p> <p>A parent tract of 79.59 acres, has been split (4) times since the enacted Ordinance date of January 1, 1999. Therefore, the splitting of (4) lots off a parent tract requires Special Exception with Minor Plat approval per the Boone County Subdivision Control Ordinance.</p>
F. Land Use and Zoning:	<p><u>Present Zoning</u></p> <p>The present zoning classification of the entire 79.59 acres is General Agricultural (AG).</p>

G. Action Requested:

Special Exception with Minor Plat

The applicant is seeking Minor Residential Plat Approval. The Shelley Minor Plat consists of the following (4) lots:

Lot 1:	Owner: Ed and Eva Shelley	Acreage: 73.59 Acres
Lot 2:	Owner: Ed and Eva Shelley	Acreage: 2.00 Acres
Lot 3:	Owner: Ed and Eva Shelley	Acreage: 2.00 Acres
Lot 4:	Owner: Ed and Eva Shelley	Acreage: 2.00 Acres

Boone County Subdivision Control Ordinance

Section C.1, Subsection A.

Applications for Minor Subdivision.

An application shall submit or receive approval one time on a parent tract allowing a minor residential subdivision containing no more than (4) residential lots, any further subdividing requires an application for a zoning map amendment.

APC Staff Comment:

As legally noted above, the subject parent tract has been subdivided into (4) residential lots, therefore, no further subdividing can occur without approval of zoning map amendment for this property. Any further subdividing of the subject lots would result in illegal non-conforming lots of record.

H. History:

History of Application Submittal

On February 27, 2013, the Board of Zoning Appeals approved the Special Exception with Minor Plat with associated conditions.

I. Soils:

Boone County Soil and Water Conservation District

Treaty

Poorly drained soil with a seasonal high water table. Slow permeability. Responds well to tile drainage.

J. Utilities:

Septic and Well Facilities

This site will be provided with septic and well facilities.

Applicant: Shelly Minor Plat
Date: April 10, 2013 BZA Meeting
Petition: Minor Plat Approval

**K. Technical Advisory
Committee Comments:**

This item was reviewed by the (TAC) Technical Advisory Committee on June 20, 2012 and December 21, 2012 and had the following comments:

Boone County Health Department

The Boone County Health Department has issued a letter of approval for the submitted soil borings.

Boone County Surveyors Office

The applicant has provided a formalized drainage plan for the minor plat.

Boone County Highway Department

Based on the fact, this property is located on a State Highway, the applicant will need to submit an application to the Indiana State Department of Transportation (INDOT) for all (3) proposed roadway cuts

Boone County Area Plan Commission

APC staff has reviewed the submitted minor plat and finds adherence to the Boone County Subdivision Control Ordinance standards for minor plats.

On February 27, 2013 the Board of Zoning Appeals approved a Special Exception with Minor Plan in accordance with the following (6) Special Exception Evaluation Criteria, APC staff summary can be found below:

**L. Standard for Evaluation-
Special Exception:**

Evaluation Standard -1

The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals or general welfare.

As indicated by the materials submitted in the Special Exception application and the findings of Technical Advisory Committee (TAC), meeting, APC staff finds the petitioner has demonstrated to APC staff the ability to satisfy the zoning provisions of the Ordinance. The ability to meet the standards of the Ordinance inherently uphold the protection of the police power and pose no threats to endanger the public, health, safety, morals, or general welfare of the community.

Evaluation Standard -2

The Special Exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

As indicated by the materials submitted in the Special Exception application and the findings of Technical Advisory Committee (TAC), APC staff finds in review of this petition, the application meets the standards of the zoning ordinance and poses no threat to the surrounding properties by the evidence submitted in the application for the future existence of the proposed single family home.

Evaluation Standard-3

The establishment of the Special Exception will not impede or substantially alter the normal and orderly development and improvement of surrounding property for uses permitted in the District.

The applicant has stated the special exception request is for the establishment of (4) residential lots. In conducting property research on the property, the proposed (4) splits represent the initial division off the parent tract of 79.59 acres, which requires the subject Special Exception with Minor Plat approval process, therefore, the future use of this property for as (4) single family dwelling will not impede adjacent properties from viable use of the land in the future.

Boone County Subdivision Control Ordinance

Section C.1, Subsection A.

Applications for Minor Subdivision.

An application shall submit or receive approval one time on a parent tract allowing a minor residential subdivision containing no more than (4) residential lots, any further subdividing requires an application for a zoning map amendment.

APC Staff Comment:

As legally noted above, the subject parent tract has been subdivided into (4) residential lots, therefore, no further subdividing can occur without approval of zoning map amendment for this property. Any further subdividing of the subject lots would result in illegal non-conforming lots of record.

Evaluation Standard-4

Adequate utilities, access road, drainage and other necessary facilities have been or are being provided.

Adequate Utilities

The applicant has stated in the application, the proposed lot will provide area for on-site septic system and private well for each lot. In review by APC staff, the Boone County Health Department has taken a preliminary review of the soil types on the subject lots. The type of soils found on the property appear conducive for a new septic system and well. However, the applicant is required to submit new soil reports to be approved by the Boone County Health Department prior to final minor plat approval.

Access Road

The lot has 2,262' feet of road frontage on State Road 75 which exceeds minimum road frontage requirement of 100', therefore, the frontage on State Road 75 provides an adequate access road. As denoted on the subject plat, Lot 2 and 3 will utilized a joint access easement for ingress/egress to each lot. Lots 1 and 4 will apply for an individual driveway cuts from Indiana Department of Transportation (INDOT). The applicant will is required to provide a future maintenance agreement for the proposed ingress/egress easement located between Lots 1 and 2 which is recorded.

Drainage

The applicant has provided a finalized drainage plan prior to Minor Plat Approval.

Evaluation Standard-5

Adequate measures have been or will be taken to provide ingress and egress so designated as to minimize traffic congestion on the public roadways.

As denoted on the subject plat, Lot 2 and 3 will utilize a joint access easement for ingress/egress to each lot. Lots 1 and 4 will apply for an individual driveway cuts from Indiana Department of Transportation (INDOT). The applicant will be required to provide a future maintenance agreement for the proposed ingress/egress easement located between Lots 1 and 2. The utilization of a shared ingress/egress easement for Lot 1 and 2 will minimize the number of roadway cuts on State Road 75, therefore, minimizing traffic congestion. As well, the design of the (3) roadway cuts are adequately spaced to avoid any potential safety issues.

Evaluation Standard-6

The Special Exception will be located in a district where such use is permitted and all other requirements set forth in the Boone County Zoning Ordinance which are applicable to such use will be met.

As found in Table 2, Authorized Uses of the Boone County Zoning Ordinance, a Special Exception with Minor Plat in the Agricultural District, therefore, the applicant has conducted the legal process for allowing (4) residential lots in the Agricultural Zoning District.

APC finds all other requirements set forth in the Boone County Zoning Ordinance are being met by the evidence found in the provided site plan created by Moses Surveying.

M. Staff Analysis:

Area Plan Staff recommends approval of this Minor Plat as presented with the following conditions:

- 1) The applicant sign a Right to Farm Agreement.
- 2) The applicant sign a Drainage Agreement.
- 3) All lots receive final Technical Advisory Committee (TAC) approval, prior to issuance of the Improvement Location Permit (ILP).
- 4) No further subdivision of any lot can occur without formal application for zoning map amendment in the APC office.